

Patent  
Attorney Docket: LYNN/0096

### REMARKS

Claims 1-3 and 28 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kattis. Kattis discloses an ice machine that includes a vertical freezer cylinder disposed in a water tank. (Kattis, Abstract). The refrigerant flows through a tubular member 50 forming the cylinder and having a central cylindrical member 54 that forms an annular area between the tubular member 50 and the central cylindrical member 54. (Kattis, FIG. 4 and col. 5, lines 45-65). Refrigerant flows along flanges 55 mounted on the central cylindrical member 54 as well as through the annular area. (Kattis, col. 5, line 46 to col. 6, line 16). Kattis states that the disclosed system "provides that the *entire tube wall is a prime surface for the refrigerant fluid with no restrictions.*" (Kattis, col. 6, lines 14-16). Kattis discloses that the ice machine is controlled by controlling the temperature of the *superheat of the refrigerant vapor* which in turn is a function of the ambient temperature. (Kattis, col. 7, lines 10-15).

Kattis further discloses that a typical refrigeration system includes a compressor, compressor fan, automatic expansion valve, a heat exchanger and an accumulator. (Kattis, col. 6, lines 26-47). Kattis discloses that the automatic expansion valve holds the suction pressure on the refrigerant side constant but that the temperature of the refrigerant leaving the freezing cylinder can vary. (Kattis, col. 6, lines 26-47).

Applicant claims a method of operating a refrigeration system having a compressor, condenser and evaporator and includes, *inter alia*, controlling an effective surface area of the evaporator to obtain a desired heat load on the evaporator, *wherein the effective surface area is wetted by a liquid refrigerant.* (Claim 1).

MPEP § 2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990).

Patent  
Attorney Docket: LYNN/0096

Furthermore, the Federal Circuit held in *Paperless Accounting, Inc. v. Bay Area Rapid Transit Systems*, 804 F.2d 659 (Fed. Cir. 1986): "[A] §102(b) reference must sufficiently describe the claimed invention to have placed the public in possession of it." *Id.* at 665.

Applicant respectfully asserts that a *prima facie* case of anticipation has not been presented because the cited prior art reference fails to set forth each and every element contained within Applicant's claim and further fails to sufficiently describe Applicant's claimed invention to have placed the public in possession of it.

Kattis does not describe or otherwise disclose how to operate a flooded evaporator. Kattis discloses controlling a refrigerant system by controlling the superheat of the refrigerant vapor leaving the system. Applicant claims controlling a flooded evaporator by controlling the effective or liquid wetted surface area of the evaporator. Applicant discloses that maintaining a constant pressure on the evaporator holds the effective surface area at a constant temperature because the evaporator maintains a liquid level of refrigerant as the control for controlling the effective surface area of an evaporator. (Claim 1). Kattis does not disclose using a flooded evaporator but instead discloses an evaporator that evaporates all of the refrigerant that enters the evaporator and instead discloses controlling the system by controlling the amount of superheat of the refrigerant vapor leaving the evaporator. Such is not what is claimed by Applicant.

Applicant claims maintaining an effective surface area that is a wetted surface and controlling the temperature of the wetted surface by maintaining a set temperature of the liquid refrigerant. (Claim 1). Kattis discloses maintaining the amount of superheat of the refrigerant leaving the evaporator and does not disclose holding a liquid level of refrigerant in the evaporator as claimed by Applicant. Kattis does not disclose an effective surface area wetted by a liquid refrigerant and does not disclose controlling the effective surface area wetted by the liquid refrigerant.

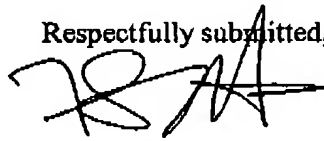
Applicant respectfully asserts that a *prima facie* case of anticipation has not been presented because Kattis does not disclose each and every element as set forth in the claim, either expressly or inherently described. Nor does Kattis sufficiently describe Applicant's claimed invention to have placed the public in possession of it. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of claim 1 as well as for all claims depending therefrom.

Patent  
Attorney Docket: LYNN/0096

Claims 4-22 and 25-26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kattis as applied to claim 1 above, and further in view of admitted prior art. Claims 23-24 and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kattis as applied to claim 1 above, and further in view of Trepaud. For the reasons provided in the remarks above concerning independent claim 1, Applicant respectfully requests reconsideration and withdrawal of the rejection of dependent claims 4-22 and 25-26 that depend, either directly or indirectly, from claim 1.

Applicant respectfully asserts that all claims are now in condition for allowance and respectfully requests the timely issuance of a Notice of Allowance. If the Examiner believes that the examination of this pending application can be expedited by a telephone interview, the Examiner is invited to telephone the below signed attorney at the convenience of the Examiner. In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/LYNN/0096 of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,



Frank J. Campigotto  
Attorney for Applicant  
Registration No. 48,130  
STREETS & STEELE  
13831 Northwest Freeway, Suite 355  
Houston, Texas 77040  
(713) 939-9444